

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DANTE H. PATTISON,

Case No. 3:22-cv-00537-ART-CSD

Plaintiff,

ORDER

v.

SHERIFF JOE LOMBARDO, et al.,

Defendants.

I. DISCUSSION

On February 3, 2023, the Court issued a screening order dismissing the complaint in its entirety without prejudice and with leave to amend for Plaintiff to submit an amended complaint that complied with the Federal Rules of Civil Procedure. (ECF No. 6 at 6-7). Plaintiff's complaint was 63 pages long, included 200 pages of exhibits, named 50 defendants, and asserted 8 claims that concerned a range of misconduct from 2015 through the present. (ECF Nos. 7, 7-1, 7-2). After granting Plaintiff multiple extensions of time to file an amended complaint, Plaintiff ultimately filed "a notice of election to stand on original complaint." (ECF Nos. 9, 13, 14).

Plaintiff then filed multiple motions including motion to fix clerical mistake and review emergency motion (ECF No. 15), motion for relief (ECF No. 16), motion to notice defendants' malicious harassment and request for relief (ECF No. 17), motion to expand the record (ECF No. 18), motion to appeal (ECF No. 19), motion to perpetuate evidence prior to appeal (ECF No. 20), and motion for emergency telephonic hearing (ECF No. 21). Plaintiff then filed a notice of appeal which the U.S. Court of Appeals for the Ninth Circuit dismissed for lack of jurisdiction. (ECF Nos. 22, 26). Plaintiff also filed another application to proceed *in forma pauperis* (ECF No. 27).

As an initial matter, Plaintiff cannot elect to stand on his original complaint. The Court dismissed the original complaint its entirety because it did

1 not comply with the Federal Rules of Civil Procedure and the District of Nevada's
2 General Order 2021-05. As such, there is no active complaint in this case
3 because Plaintiff has chosen not to file an amended complaint. Because there is
4 no active complaint in this case, the Court dismisses all of Plaintiff's motions
5 seeking relief. *See Pac. Radiation Oncology, LLC v. Queen's Med. Ctr.*, 810 F.3d
6 631, 633 (9th Cir. 2015) (holding "[a] court's equitable power lies only over the
7 merits of the case or controversy before it. When a plaintiff seeks injunctive relief
8 based on claims not pled in the complaint, the court does not have the authority
9 to issue an injunction").

10 The Court will grant Plaintiff one final opportunity to file an amended
11 complaint that complies with the Federal Rules of Civil Procedure and the District
12 of Nevada's General Order 2021-05. If Plaintiff chooses not to file an amended
13 complaint that complies with the federal rules and this Court's general order, the
14 Court will dismiss this case without prejudice for Plaintiff to initiate a new lawsuit
15 when he is able to comply.

16 **II. CONCLUSION**

17 It is therefore ordered that the application to proceed *in forma pauperis*
18 (ECF No. 1) is denied as moot.

19 It is further ordered that a decision on the application to proceed *in forma*
20 *pauperis* (ECF No. 27) is deferred.

21 It is further ordered that Plaintiff's miscellaneous motions are denied (ECF
22 Nos. 15, 16, 17, 18, 19, 20, 21).

23 It is further ordered that, if Plaintiff chooses to file an amended complaint
24 curing the deficiencies of his complaint, as outlined in the screening order (ECF
25 No. 6), Plaintiff must file the amended complaint within 30 days from the date of
26 entry of this order.

27 It is further ordered that the Clerk of the Court will send to Plaintiff the
28 approved form for filing a § 1983 complaint, instructions for the same, a copy of

1 his complaint (ECF Nos. 7, 7-1, 7-2), a copy of the screening order (ECF No. 6),
2 and a copy of General Order 2021-05. If Plaintiff chooses to file an amended
3 complaint, he should use the approved form and he will write the words "First
4 Amended" above the words "Civil Rights Complaint" in the caption.

5 It is further ordered that, if Plaintiff fails to timely file an amended
6 complaint curing the deficiencies outlined in the screening order, this action will
7 be dismissed without prejudice.

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9 DATED THIS 12th day of September 2023.

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13 ANNE R. TRAUM
14 UNITED STATES DISTRICT JUDGE
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